

REMARKS

SUMMARY

Claims 1-21 are pending.

Claim 16 is hereby amended.

Claims 16-21 stand rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter.

Claims 1-4, 7, 8,10,13,14,16,19, and 20 stand rejected under 35 U.S.C. § 102(e) as allegedly anticipated by U.S. Patent Publication No. 2002/0005935 to Robin ("Robin").

Claims 5, 6, 11, 12, 17, and 18 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Robin in view of official notice.

Claims 9, 15, and 21 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Robin in view of U.S. Patent Publication No. 2003/0125609 to Becker ("Becker").

APPLICANTS' RESPONSE

In this Response, Applicants present arguments concerning the patentability of claims 1-21 to address the Examiner's rejections. Applicants' silence with regard to any aspect of the Examiner's rejections of the dependent claims is based on Applicants' contention that the rejections are moot based on Applicants' remarks relative to the independent claim from which the dependent claims depend.

Applicants have amended claim 16 to better clarify the claimed subject matter. No new matter is introduced by virtue of these amendments. Support for the amendments can be found throughout the specification.

35 U.S.C. § 101 REJECTIONS

Claims 16-21 stand rejected under 35 U.S.C. § 101 as allegedly directed to non-statutory subject matter. According to the Examiner, Applicants' specification does not specifically describe the types of media encompassed by the phrase "computer readable medium." For purposes of expediting prosecution, Applicants hereby amend claim 16 to recite "a non-transitory computer readable medium," as suggested by the Examiner. In view of this amendment, Applicants respectfully request that the rejection under 35 U.S.C. § 101 be withdrawn.

35 U.S.C. § 102 REJECTIONS

Claim 1

Claim 1 recites, *inter alia*, "wherein the identity of the patient is not known in the product oriented longitudinal data, patient oriented longitudinal data and prescriber oriented longitudinal data." Applicants respectfully submit that Robin neither discloses nor suggests this limitation.

Robin is directed to "an internet-based system designed to assist eye care professionals in the diagnosis and treatment of glaucoma." Robin, paragraph [0060]. "A results reporting module is used for generating patient reports for glaucoma diagnosis, treatment, and analysis." *Id.* In order to take advantage of these features, the clinician accesses the Patient Database and locates a patient record "on the basis of a variety of data elements such as social security number, patient number, or name." Robin, paragraph [0091]. Thus, Robin fails to disclose or suggest a system in which the identity of the patient is not known.

Instead, the features provided by the system of Robin require that the identity of the patient is known. For example, the clinician may receive a patient report for glaucoma diagnosis or treatment. However, unless the identity of the patient is known, the clinician cannot apply the information contained in the report to the diagnosis or treatment of the patient. The system can “categorize[] the patient’s risk for the disease.” Robin, paragraph [0063]. This information is irrelevant if the identity of the patient is not known. The reports generated for the patient are “sent...to the attending physician and to the patient [and] remain[] a part of the patient’s permanent medical record.” Robin, paragraph [0064]. The identity of the patient must be known for the record to be sent to the patient and his/her attending physician and to be placed in the patient’s permanent record. Thus, Robin fails to disclose or suggest “wherein the identity of the patient is not known in the product oriented longitudinal data, patient oriented longitudinal data and prescriber oriented longitudinal data,” as recited in claim 1. Indeed, Robin teaches against such limitation by disclosing a system in which the identity of the patient *must* be known.

The Examiner identifies paragraph 91 and Figure 16 of Robin as disclosing this limitation. *See* Office Action dated August 23, 2010, page 4. Both of these references further emphasize that the system is only useful if the clinician treating the patient can access the patient record from the Patient Database. The Examiner argues that the broadest reasonable interpretation of “identity of the patient is not known” would include the searching of data by patient number because the name of the patient is not revealed. *See* Office Action dated August 23, 2010, page 8. Applicants respectfully disagree. Claim 1 recites that “the identity of the patient is not known,” not that the name of the patient is not known. A social security number or patient number can be used to identify a patient so that the clinician can access the patient record for a particular patient.

The Examiner further argues that the language of the claims does not specify who the identity is hidden from. *See* Office Action, dated August 23, 2010, page 8. Applicants respectfully disagree. Claim 1 recites “wherein the identity of the patient is not known *in the product oriented longitudinal data, patient oriented longitudinal data and prescriber oriented longitudinal data.*” (emphasis added). Thus, the identity is not “hidden” from anyone. Instead, the patient identity is not known in the longitudinal data. In contrast, the identity of the patient is disclosed in the patient report of Robin. *See, e.g.,* Robin, Figure 34A.

Applicants therefore respectfully submit that Robin does not disclose or suggest, among other things, “wherein the identity of the patient is not known in the product oriented longitudinal data, patient oriented longitudinal data and prescriber oriented longitudinal data” as recited in claim 1. Applicants therefore respectfully request withdrawal of the rejections to claim 1 and, at least because of their dependence therefrom, claims 2-4, 7, and 8.

Claims 2 and 4

Claim 2 recites, *inter alia*, “wherein the selected report type is a product oriented report.” Claim 4 recites, *inter alia*, “wherein the selected report type is a prescriber oriented report.” Applicants respectfully submit that Robin neither discloses nor suggests, among other things, “wherein the selected report type is a product oriented report,” as recited in claim 2, or “wherein the selected report type is a prescriber oriented report,” as recited in claim 4. For at least these reasons, in addition to the reasons discussed above in relation to claim 1, Applicants respectfully request that the rejections be withdrawn and claims 2 and 4 be allowed.

Claims 10,13,14,16,19, and 20

Similar to claim 1, Claims 10 and 16 recite, *inter alia*, “wherein the identity of the patient is not known in the product oriented longitudinal data, patient oriented longitudinal data and

prescriber oriented longitudinal data.” Applicants therefore respectfully request withdrawal of the rejections to claims 10 and 16, and at least because of their dependence from the claims from which they depend, claims 13, 14, 19, and 20, for at least the same reasons as claim 1.

35 U.S.C. § 103 REJECTIONS

Applicants respectfully request withdrawal of the rejections to claims 5, 6, 9, 11, 12, 15, 17, 18, and 21 for at least the same reasons as the respective, independent claims from which these claims depend.

CONCLUSION

Applicants respectfully submit that this application is now in condition for allowance. Reconsideration and prompt allowance of which are respectfully requested.


The Examiner is invited to contact the undersigned at (212) 408-2517 if any additional information or assistance is required.

Applicants believe that no additional fee is due in connection with the filing of this response. If any additional fee is due, or overpayment made, with regard to this response, Applicants authorize the Director to charge any such fee, and credit any overpayment, to Deposit Account No. 02-4377.

Respectfully submitted,

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